



State of Arizona
Department of Education

Tom Horne
Superintendent of
Public Instruction

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MEMORANDUM

TO: Sponsors of the National School Lunch Program & School Breakfast Program

FROM: Mary Szafranski, Deputy Associate Superintendent
Arizona Department of Education, Health and Nutrition Services

Lee Renda, NSLP Nutrition Director
Lynn Ladd, NSLP Health Director
National School Lunch Program

Original Signed

DATE: October 31, 2008

SUBJECT: Final Fluid Cow's Milk Substitution Rule

The USDA's Food and Nutrition Service (FNS) issued the final rule *Fluid Milk Substitutions in the School Nutrition Program* on September 12, 2008, to implement a provision of the Child Nutrition and WIC Reauthorization Act of 2004. This memorandum is intended to explain key requirements of the attached rule, which became effective October 14, 2008.

In summary, this rule:

- Requires that nondairy beverages offered as substitution for fluid cow's milk be nutritionally equivalent to fluid cow's milk and provide specific levels of calcium (276mg), protein (8g), vitamins A (500IU) and D (100IU), magnesium (24mg), phosphorus (222mg), potassium (349mg), riboflavin (0.44mg), and vitamin B-12 (1.1mcg);
- Continues the current requirements on meal variations for students with disabilities in the National School Lunch Program and School Breakfast Program;
- Allows school food authorities (SFAs) discretion to offer fluid cow's milk substitutes to students with medical or other special dietary needs that do not rise to the level of a disability; and
- Allows SFAs to accept a written statement from a parent/guardian or from a recognized medical authority. The supporting statement must identify the student's medical or other special dietary need for excluding fluid cow's milk.

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The following chart was designed to assist SFAs with the fluid cow's milk substitution rules:

Child's Dietary Needs	Acceptable Fluid Milk Substitutes	SFAs Role	Documentation Required
Intolerance or allergy to cow's milk (non-disabled)*	Lactose-free milk or nondairy beverage that is nutritionally equivalent to cow's milk (see specific nutrient requirements above)	SFA makes the decision whether to allow substitutions (a district-wide policy should be implemented)	Note from either parent/legal guardian or recognized medical authority* (Note must identify the student's medical or other special dietary need for excluding fluid cow's milk)
Disabled*	Must be in accordance with the diet order prescribed by a physician	SFA must make the prescribed substitution/modification	Written documentation of the condition from a physician and a detailed diet order specifying specific substitutions from a physician, registered dietitian, nurse practitioner, or physician's assistant
Cultural, ethical, religious, or ethnic preference against cow's milk	Lactose-free milk or nondairy beverage that is nutritionally equivalent to cow's milk (see specific nutrient requirements above)	SFA makes the decision whether to allow substitutions (a district-wide policy should be implemented)	Note from either parent/legal guardian or recognized medical authority (Note must identify the student's medical or other special dietary need for excluding fluid cow's milk)

*Please see the *Accommodating Children with Special Needs in the School Nutrition Programs* Guidance Manual for definitions of disabled, non-disabled and recognized medical authority. This manual can be located at:

<http://www.ade.az.gov/health-safety/cnp/nslp/GuidanceManual/SpecialDietManualforwebsite.pdf>.

Presently, there is no soy milk product on the market that meets these USDA standards. However, Arizona Department of Education has become aware that the soy industry is targeting Spring 2009 for the release of a soy milk product that does meet the USDA standards.

For additional questions regarding the fluid cow's milk substitution rule please contact your School Health and Nutrition Specialist at (602) 542-8700.

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